

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

STERLING D. BROWN, on behalf
of himself and all others similarly situated

PLAINTIFF

VS.

CASE NO. 05-CV-1068

AMERICA'S CAR MART, INC.

DEFENDANT

ORDER

Before the Court is Plaintiff Sterling Brown's Motion to Voluntarily Dismiss Class Allegations. (Doc. No. 13). The Plaintiff asks the Court to approve the dismissal of his class allegations set forth in the Amended Complaint in this action. The Defendant has not responded to the motion.

This action is a putative class action. In order to voluntarily dismiss the class allegations in this case, the Plaintiff must first obtain court approval. *See* Fed.R.Civ.P. 23(e). This is true whether the class has been certified or not. *Crawford v. F. Hoffman-La Roche Ltd.*, 267 F.3d 760, 764-65 (8th Cir. 2001). In deciding whether to allow the dismissal of the class allegations in this case the Court must consider, among other things, the possibility that potential members of the class would be prejudiced by the dismissal. *Id.* (internal citation omitted). In this case, there are other putative class actions against the Defendants pending in this Court (*Shelton, et al. v. America's Car-Mart, Inc.*, Case No. 05-CV-1083 and *Gordon v. America's Car-Mart, Inc.*, Case No. 05-CV- 1119) of which the potential class members could belong. Therefore, the potential class members in this case will not be prejudiced by the Plaintiff Sterling Brown proceeding

against the Defendants individually. Upon consideration, the Court finds that Plaintiff's motion should be and hereby is **granted**. The class allegations contained within Plaintiff Sterling Brown's Amended Complaint are hereby dismissed. Plaintiff Sterling D. Brown may proceed solely with his individual claims against Defendant America's Car Mart, Inc.

IT IS SO ORDERED, this 28th day of March, 2006.

/s/Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge